

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LEAH SHELTON, a minor by  
RAMONA SHELTON her parent  
and next friend and RAMONA SHELTON,  
Individually, and KINO SHELTON, Individually,

Plaintiff,

v.

UNITED STATES OF AMERICA,  
Defendant.

07CV1078  
JUDGE GRADY  
MAG. JUDGE KEYS

)  
)  
) CASE NO:  
) Formerly Case No: 05L014607  
) Circuit Court of Cook County  
) Illinois, County Department,  
) Law Division

**FILED**

COMPLAINT AT LAW

J.N

FEB 23 2007

COUNT ONE

(Negligence- Medical Malpractice)  
Leah Shelton v. United States

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

NOW COME the Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON, her parent and next friend, by and through their attorneys, SALVI, SCHOSTOK & PRITCHARD P.C., and complaining of the Defendant, UNITED STATES OF AMERICA, by and through its employees, and/or its actual, apparent, and/or implied, agents, and in support states as follows:

1. This is an action arising under the Federal Torts Claims Act, 28 U.S.C. §§2671 et seq.
2. That the Plaintiff, LEAH SHELTON, is a minor and Plaintiffs, RAMONA SHELTON and KINO SHELTON are her lawful parents and legal guardians.
3. Plaintiffs, RAMONA SHELTON, as the next friend and Mother of LEAH SHELTON, and RAMONA SHELTON, Individually, and KINO SHELTON, Individually, have

complied with Section 2675(a) of the Federal Tort Claims Act, and have exhausted their administrative remedies before filing this suit.

4. On March 8, 2006, Plaintiffs, RAMONA SHELTON, as the next friend Mother of LEAH SHELTON, and, RAMONA SHELTON, Individually, and KINO SHELTON, Individually, filed administrative claim(s) with the UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES in the sum total of \$28,500,000.00. Plaintiff, RAMONA SHELTON as the next friend of LEAH SHELTON demanded \$20,000,000.00, for negligence and personal injury of LEAH SHELTON; RAMONA SHELTON, Individually, demanded \$3,000,000.00, for family medical expense claims and caretaking claims; KINO SHELTON, Individually, demanded \$3,000,000.00 for family medical expense claims and caretaking; and RAMONA SHELTON, Individually, demanded \$2,500,000.00 for personal injury.

5. More than six months have elapsed since the submission of the administrative claim. The UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES on October 24, 2006, provided final written denial of the claims. Pursuant to 28 U.S.C. 2675(a), Plaintiffs, RAMONA SHELTON, as the next friend and Mother of LEAH SHELTON, Individually, and RAMONA SHELTON, Individually, and KINO SHELTON, Individually elects to file their complaint against the Defendant, UNITED STATES OF AMERICA, in DISTRICT COURT.

6. This Court is vested with jurisdiction pursuant to 28 U.S.C. §1346(b). Plaintiffs, RAMONA SHELTON, as the next friend and Mother of LEAH SHELTON, and RAMONA SHELTON, Individually, and KINO SHELTON, reside in Chicago, Illinois, Cook County, within the Northern District of Illinois, Eastern Division. The complained of acts and omissions of the Defendant, UNITED STATES OF AMERICA, occurred within the Northern District of Illinois, Eastern Division.

7. On and before March 14, 2004, through March 15, 2004, and at all times relevant, PCC COMMUNITY WELLNESS CENTER (hereinafter referred to as PCC) and MARK LOAFMAN, M.D., have been deemed by the UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES to be an employee of the Defendant, UNITED STATES OF AMERICA pursuant to 42 U.S.C. §233, for Federal Tort Claims Act purposes, only.

8. On and before March 14, 2004, through March 15, 2004, and at all times relevant, PCC was a private entity receiving grant money from the UNITED STATES PUBLIC HEALTH SERVICE pursuant to 42 U.S.C. §233.

9. On and before March 14, 2004, through March 15, 2004, and at all times relevant, PCC was owned and/or operated by the Defendant, UNITED STATES OF AMERICA, through the UNITED STATES PUBLIC HEALTH SERVICE, an agency of the Defendant.

10. On and before March 14, 2004, through March 15, 2004, and at all times relevant, PCC held itself out to the public generally, including RAMONA SHELTON and LEAH SHELTON, a minor, as a provider of medical, obstetric services including but not limited to, prenatal care, and/or labor and delivery, and/or newborn and/or pediatric services.

11. On and before March 14, 2004, through March 15, 2004, and at all times relevant, MARK LOAFMAN, M.D. was a physician licensed to practice medicine in all branches.

12. On and before March 14, 2004, through March 15, 2004, and at all times relevant, MARK LOAFMAN, M.D. held herself out to the public generally as a board-certified obstetrician/gynecologist physician.

13. On and before March 14, 2004, through March 15, 2004, and at all times relevant, PCC provided certain medical facilities, medical equipment, pharmacology services, and drugs

for the purpose of providing medical, obstetric, labor and delivery, and/or newborn and/or pediatric services to patients, including RAMONA SHELTON, and LEAH SHELTON, a minor.

14. On and before March 14, 2004, through March 15, 2004, RAMONA SHELTON and LEAH SHELTON, a minor, came under the care, treatment and attendance of MARK LOAFMAN, M.D, an employee, and/or agent, apparent agent, and/or servant of PCC and the Defendant.

15. On and before March 14, 2004, through March 15, 2004, and at all times relevant, the agents, apparent agents, servants and/or employees of PCC, including but not limited to MARK LOAFMAN, M.D., provided medical and obstetric services, including but not limited to, prenatal, and/or labor and delivery, and/or newborn and pediatric and/or and treatment to RAMONA SHELTON and LEAH SHELTON, a minor.

16. On and before March 14, 2004, through March 15, 2004, and at all times relevant, the agents, apparent agents, servants and/or employees of PCC were acting in the scope of their employment and/or agency, and with the permission and consent of the Defendant, UNITED STATES OF AMERICA, in doing or omitting to do all things alleged in this Complaint.

17. At all times relevant, in providing medical care to RAMONA SHELTON and LEAH SHELTON, PCC, by and through its agents, apparent agents, servants and/or employees, including but not limited to MARK LOAFMAN, M.D., had a duty to possess and apply the knowledge, and use the skill and care that a reasonably well qualified and/or careful medical personnel, physicians, residents, nurses, and/or medical students, would ordinarily use in cases like that of RAMONA SHELTON and LEAH SHELTON, a minor.

18. In the year 2004, MARK LOAFMAN, M.D., as an agent, apparent agent, servant and/or employee of PCC, provided obstetric services, including but not limited to, prenatal, labor and delivery services to RAMONA SHELTON and LEAH SHELTON, a minor.

19. That on and before March 14, 2004, through March 15, 2004, and at all times material, Defendant, MARK LOAFMAN, M.D., was a member of the medical staff at WEST SUBURBAN HOSPITAL MEDICAL CENTER in Oak Park, Cook County, Illinois, and PCC.

20. That on March 14, 2004 through March 15, 2004, RAMONA SHELTON (formerly known as "RAMONA BRADELY"), was admitted to WEST SUBURBAN HOSPITAL MEDICAL CENTER as an obstetric patient.

21. That Plaintiff, LEAH SHELTON (formerly known as "BABY GIRL BRADLEY"), a minor, was delivered on March 15, 2004 at WEST SUBURBAN HOSPITAL MEDICAL CENTER.

22. That LEAH SHELTON, a minor, and RAMONA SHELTON were under the care of MARK LOAFMAN, M.D., during the labor and delivery on March 14, 2004 through March 15, 2004 while at WEST SUBURBAN HOSPITAL MEDICAL CENTER.

23. That at all times material herein, while providing care and treatment to LEAH SHELTON, a minor, and RAMONA SHELTON, MARK LOAFMAN, M.D., held himself out to the Plaintiff and the public generally to be a specialist in obstetrics and gynecology.

24. That on and before March 14, 2004, through March 15, 2004, and at all times relevant, while RAMONA SHELTON and LEAH SHELTON, a minor, were being treated by MARK LOAFMAN, M.D., he was acting as an employee, apparent agent, servant, and/or implied agent of Defendant, UNITED STATES OF AMERICA, and/or PCC in providing medical and/or obstetrical services to RAMONA SHELTON and LEAH SHELTON, a minor.

25. That on and before March 14, 2004, through March 15, 2004, and at all times relevant, while DR. KIM, Dr. THOTA and DR. PAVULURI, WILLIAMS FRED, R. N., ROBBIN UCHISON, R. N., KATHY SCHLEUTER R.N., AND WEST SUBURBAN MEDICAL CENTER, were providing medical, obstetrical, and/or labor and delivery services to RAMONA

SHELTON and LEAH SHELTON, a minor, the medical personal were acting under the direction and/or supervision of MARK LOAFMAN, M.D., as agent(s), apparent agent(s), servant(s), and/or employee(s) of MARK LOAFMAN, M.D., and/or PCC.

26. That on and before July 16, 2003, through March 15, 2004, and at all times relevant, the agent(s), apparent agent(s), servant(s) and/or employee(s) of the Defendant, UNITED STATES OF AMERICA, and/or PCC while acting in the scope of their employment and or agency, including but not limited to MARK LOAFMAN M.D., were negligent in their treatment of LEAH SHELTON, a minor, and RAMONA SHELTON, in one or more of the following respects:

- a. Failed to appropriately manage the obstetrical risks and care for the labor and delivery of Ramona Shelton and Leah Shelton, a minor;
- b. Failed to properly perform a vaginal delivery;
- c. Failed to properly treat Leah Shelton's shoulder dystocia;
- d. Negligently performed a vaginal delivery by exerting excessive traction;
- e. Failed to resolve the shoulder dystocia prior to delivering the posterior arm;
- f. Failed to perform an episiotomy;
- g. Negligently performed and supervised a vaginal delivery; and,
- h. Failed to apply the standard delivery maneuvers before deciding to initiate excessive traction; and

27. That as a direct and proximate cause of one or more of the foregoing negligent acts or omissions of the agents, apparent agents, employees and/or servants of PCC and Defendant, UNITED STATES OF AMERICA, including but not limited to MARK LOAFMAN,

M.D., while acting in the scope of their employment and/ or agency, of the UNITED STATES OF AMERICA, the minor Plaintiff, LEAH SHELTON, was severely injured; she has been injured both internally and externally; she is permanently disfigured and disabled; she has and will experience pain and suffering; she has and will incur medical expenses; she has an impaired earning capacity or will be incapable of earning a living.

28. Plaintiffs attach an attorney affidavit (See, Exhibit "A", attached hereto.) and physician report (See, Exhibit "B", attached hereto) in compliance with 735 ILCS 5/2-622.

**WHEREFORE**, Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON her parent and next friend, demand judgment against Defendant, UNITED STATES OF AMERICA, in the sum of money in the amount of \$20,000,00.00, together with the costs of this action.

**COUNT TWO**  
**(Family Expense Act)**  
**(Ramona Shelton, et al v. United States)**

**NOW COME** the Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON, her parent and next friend, and RAMONA SHELTON, Individually, and KINO SHELTON, Individually, as the parents and legal guardians of LEAH SHELTON, a minor, by and through their attorneys, SALVI, SCHOSTOK & PRITCHARD P.C.; and demands judgment against the Defendant, UNITED STATES OF AMERICA, by and through its employees, and/or its actual, apparent, and/or implied agents, and in support states as follows:

1-28. The Plaintiffs, RAMONA SHELTON and LEAH SHELTON, restate and incorporate by reference paragraphs 1-28 of Count One of this Complaint At Law as paragraphs 1-28 of Count Two of this Complaint At Law.

29. That the Plaintiff, LEAH SHELTON, is a minor and Plaintiffs, RAMONA SHELTON and KINO SHELTON are her lawful parents and legal guardians and as such have

become liable for substantial medical and other expenses arising out of the injuries sustained by LEAH SHELTON.

**WHEREFORE**, Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON, her parent and next friend, and, RAMONA SHELTON Individually, and KINO SHELTON, Individually, demand judgment against Defendant, UNITED STATES OF AMERICA, in the sum of money of \$3,000,000.00, together with the costs of this action.

**COUNT THREE**  
**(Negligence - Caretaking)**  
**(Ramona Shelton et. al. v. United States)**

**NOW COME** the Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON, her parent and next friend, and RAMONA SHELTON, Individually, and KINO SHELTON, Individually, as the parents and legal guardians of LEAH SHELTON, a minor, by and through their attorneys, SALVI, SCHOSTOK & PRITCHARD P.C.; and demands judgment against the Defendant, UNITED STATES OF AMERICA, by and through its employees, and/or its actual, apparent, and/or implied agents, and in support states as follows:

1-28. The Plaintiffs, RAMONA SHELTON and KINO SHELTON, restate and incorporate by reference paragraphs 1-28 of Count One of this Complaint at Law, including all subparagraphs, as paragraphs 1-28 of Count Two of this Complaint at Law.

29. That the Plaintiff, LEAH SHELTON, is a minor and Plaintiffs, RAMONA SHELTON and KINO SHELTON are her lawful parents and legal guardians.

30. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions of the Defendant, UNITED STATES OF AMERICA, by and through its employees, agents, apparent agents, and/or implied agents, Plaintiffs RAMONA SHELTON, Individually, and KINO SHELTON, Individually, as parents of the minor Plaintiff, LEAH



SHELTON, have spent and will spend considerable time and/or substantial sums of money for caretaking services, of the parents to their minor child, LEAH SHELTON, arising out of the injuries sustained by LEAH SHELTON.

**WHEREFORE**, Plaintiffs, LEAH SHELTON, a minor, by RAMONA SHELTON, her parent and next friend, and, RAMONA SHELTON Individually, and KINO SHELTON, Individually, demand judgment against Defendant, UNITED STATES OF AMERICA, in the sum of money of \$3,000,000.00, together with the costs of this action.

**COUNT FOUR**  
**(Negligence / Medical Malpractice)**  
**(Ramona Shelton v. United States)**

**NOW COMES** the Plaintiff RAMONA SHELTON, Individually, by and through her attorneys, SALVI, SCHOSTOK & PRITCHARD P.C.; and complaining of the Defendant, UNITED STATES OF AMERICA, Individually, and by and through its actual, apparent, and/or implied, agents, and states as follows:

1-26. Plaintiff, RAMONA SHELTON, restates, and incorporates by reference paragraphs 1 through 26 of Count I, including all subparagraphs, as and for paragraphs 1 through 26 of Count IV.

27. That as a direct and proximate result of one or more of the foregoing negligent acts and/or omissions of the Defendant, by and through its employee(s), actual, apparent, and/or implied, agent(s), including but not limited to MARK LOAFMAN, M.D., RAMONA SHELTON, Individually, has suffered substantial injuries, including but not limited to the following: both internal and external injuries; permanent disfigurement; urinary incontinence; sexual dysfunction; loss of a normal life, disability, pain and suffering, and reasonable and necessary medical expenses.

WHEREFORE, the Plaintiff, RAMONA SHELTON, Individually, demands judgment against Defendant, UNITED STATES OF AMERICA, in the sum of money of \$2,500,000.00, together with the costs of this action.

SALVI, SCHOSTOK & PRITCHARD P.C.

By:

  
Attorneys for Plaintiffs

KATHLEEN A. MCGINTY  
SALVI, SCHOSTOK & PRITCHARD P.C.  
181 W. Madison Street  
Suite 3800  
Chicago, IL 60602  
312/372-1227  
Attorney No.: 34560

**CERTIFICATE FOR AN ACTION IN MEDICAL MALPRACTICE  
PURSUANT TO 735 ILCS 5/2-622**

**PATIENTS: Leah Shelton, a minor, by and through her next friend and parent, Ramona Shelton, Ramona Shelton, Individually, and Kino Shelton, Individually**

I am a physician licensed to practice medicine in the State of Texas in all of its branches. I am board certified in obstetrics and gynecology. I have practiced in the above area of medicine for well over the last fifteen years. I actively practice in obstetrics and gynecology and am engaged in the instruction of medical students and residents in obstetrics and gynecology.

I have reviewed in detail records, facts, and other relevant materials pertaining to the above patients including but not limited to, Ramona Shelton's prenatal, labor and delivery and other medical records from West Suburban Hospital and PCC Community Wellness Center, Leah Shelton's birth records from West Suburban Medical Center and PCC Community Wellness Center, subsequent treatment records, and the videotape of the labor and delivery of Ramona Shelton and Leah Shelton, a minor.

I am familiar with the standard of care of physicians, medical students and residents for the care and treatment provided to Leah Shelton, a minor, and Ramona Shelton. I am knowledgeable in the medical, obstetrical and surgical care and treatment and other relevant issues involved in this matter. I am familiar with the standard of care for reasonable well qualified physician, obstetrician, surgeon, resident for the care and treatment of patients like Ramona Shelton and Leah Shelton, a minor.

For the reasons that follow below, it is my opinion, which I hold to a reasonable degree of medical certainty that a meritorious basis for filing an action exists against the Defendant, UNITED STATES OF AMERICA, by and through its employees, agents, apparent agents, and/or implied agents, including but not limited to: Mark Loafman, M.D., and PCC Community Wellness Center, Dr. Kim, Dr. Thota, Dr. Pavuluri, and West Suburban Hospital.

**It is my opinion, to a reasonable degree of medical certainty, that in the treatment of Ramona Shelton and Leah Shelton, a minor, the Defendant, by and through its employee, agent, apparent agent, and or implied agents, including but not limited to, Mark Loafman, M.D., and residents under his supervision, deviated from the acceptable standards of care of medical practice as follows:**

- failed to appropriately manage the labor and delivery risks and care of Ramona Shelton;
- failed to properly treat Leah Shelton's shoulder dystocia;
- failed to resolve the shoulder dystocia prior to delivering the posterior arm;
- negligently performed a vaginal delivery by exerting excessive downward traction;
- failed to perform an episiotomy;
- negligently performed a vaginal delivery when he failed to apply the standard delivery maneuvers before deciding to initiate excessive traction;

- failed to properly perform and supervise vaginal delivery; and,
- failed to advocate for appropriate medical care

It is my opinion which I hold to a reasonable degree of medical certainty that one or more of the aforementioned deviations from the standard of care outlined above, for the above listed physicians, each individually, and all of them, contributed to and/or caused substantial injuries to minor, Leah Shelton, including but not limited to, both internal and external injuries, permanent disfigurement, loss of a normal life, disability, pain and suffering, and reasonable and necessary medical expenses.

It is my opinion which I hold to a reasonable degree of medical certainty that one or more of the aforementioned deviations from the standard of care outlined above, for the above listed physicians, each individually, and all of them, contributed to and/or caused substantial injuries to Ramona Shelton, including but not limited to, both internal and external, permanent disfigurement, loss of a normal life, urinary incontinence, sexual dysfunction, disability, pain and suffering, and reasonable and necessary medical expenses.

Respectfully submitted:

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Bruce Halbridge, M.D.  
17510 W. Grand Parkway South  
Suite 550  
Sugar Land, TX 77479  
TEXAS LICENSE NUMBER: F- 1042

Date: 2-22-07

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LEAH SHELTON, a minor by )  
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and next friend and RAMONA SHELTON, )  
Individually, and KINO SHELTON, Individually, )

Plaintiff, )

v. )

UNITED STATES OF AMERICA, )

Defendant. )

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Circuit Court of Cook County

Illinois, County Department,

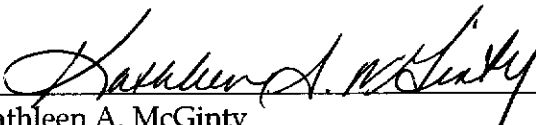
Law Division

**AFFIDAVIT OF KATHLEEN A. MCGINTY**

I, KATHLEEN A. MCGINTY, being first duly sworn, state as follows:

1. I am the attorney for the Plaintiffs.
2. I have consulted with a medical doctor who I believe is familiar with the relevant issues involved in this particular action, has practiced within the last six years and who I reasonably believe is qualified by his experience to render opinions in the subject of this case.
3. That the reviewing healthcare provider has determined in written a report, after review of the medical records of LEAH SHELTON and RAMONA SHELTON, videotape, and other relevant materials involved in this action, that there is a reasonable and meritorious cause for filing such an action against all the defendants.
4. I reasonably believe on the basis reviewing health professional's review and consultation that there is a reasonable and meritorious cause for filing this action.
5. This case has ~~been~~ been voluntarily dismissed.

FURTHER AFFIANT SAYETH NAUGHT.

  
Kathleen A. McGinty

SUBSCRIBED and SWORN to before  
me on 23 day of February 2007.

  
Notary Public



Kathleen A. McGinty  
SALVI, SCHOSTOK & PRITCHARD P.C.  
181 W. Madison Street  
Suite 3800  
Chicago, Illinois 60602  
(312) 372-1227  
Firm No.: 34560

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LEAH SHELTON, a minor by  
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Plaintiff,  
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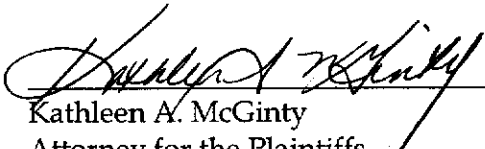
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**AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(B)**

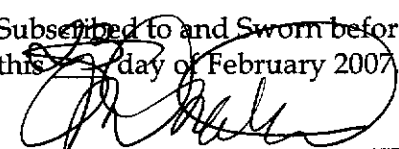
Pursuant to Supreme Court Rule 222(B), counsel for the above-named Plaintiffs certify that Plaintiffs seek money damages in excess of \$50,000.00.

SALVI, SCHOSTOK & PRITCHARD P.C.

By:

  
Kathleen A. McGinty  
Attorney for the Plaintiffs

Subscribed to and Sworn before me  
this 23 day of February 2007

  
Notary Public



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